

MCNUTT LAW FIRM, P.C.
 Daniel R. McNutt, Esq., Bar No. 7815
 Matthew C. Wolf, Esq., Bar No. 10801
 11441 Allerton Park Drive, #100
 Las Vegas, Nevada 89135
 Tel.: (702) 384-1170 / Fax.: (702) 384-5529
drm@mcnuttlawfirm.com
mcw@mcnuttlawfirm.com
Counsel for Defendant David Boruchowitz

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

RICK NELSON,
 Plaintiff,

Case No.: 2:23-cv-01786-JCM-VCF

NYE COUNTY, NEVADA, a political
 subdivision of the State of Nevada, a former
 NYE COUNTY SHERIFF SHARON
 WHERLY, individually, and CAPTAIN
 DAVID BORUCHOWITZ, individually,
 Defendants.

**~~Proposed~~ Joint Discovery Plan and
 Scheduling Order**

Submitted in Compliance with LR 26-1(b)

Pursuant to FRCP 26(f), a telephonic conference was held on December 11, 2023 and was attended by Matthew C. Wolf, Esq. of the McNutt Law Firm, P.C., on behalf of Defendant Captain David Boruchowitz (Defendant Boruchowitz) and Thomas Gibson, Esq. of Nye Legal, PLLC on behalf of Plaintiff Rick Nelson (Plaintiff). The parties hereby submit their proposed Discovery Plan and Scheduling Order in compliance with LR 26-1(b).

DISCOVERY PLAN

1. Initial Disclosures: The parties will serve their initial disclosures pursuant to FRCP 26(a)(1) on or before **December 29, 2023**.
2. Subjects of Discovery: The parties agree that the areas of discovery should include, but not be limited to: all claims and defenses allowed pursuant to the Federal Rules of Civil Procedure.
3. Discovery Cutoff Date: Discovery will cutoff 180 days from the first appearance of Defendant David Boruchowitz, such that discovery closes on **April 30, 2024**.
4. Amending Pleadings and Adding Parties: The deadline to amend pleadings or add

1 parties shall by 90 days before the discovery date, which is **January 31, 2024**.

2 5. FRCP 26(a)(2) Expert Disclosures: The deadlines for exchanging expert reports
3 shall be as follows:

4 a. Expert disclosures shall be 60 days before the discovery cutoff date, which is **March**
5 **1, 2024**.

6 b. Rebuttal expert disclosures shall be 30 days after the initial expert disclosure, which
7 is **April 1, 2024**.

8 6. Dispositive Motions: The parties shall file any dispositive motions no later than 30
9 days after the discovery cutoff, which is **May 30, 2024**.

10 7. Pretrial Order: A joint pretrial order shall be filed by **May 1, 2024**, which is 30 days
11 after the dispositive motion deadline. This deadline will be suspended if dispositive motions are
12 timely filed until 30 days after the decision of the dispositive motions or until further order of the
13 Court. The disclosure required by FRCP 26(a)(3), and objections thereto, shall be included in the
14 pre-trial order.

15 8. Extension of Modifications of Discovery Plan and Scheduling Order: Extensions of
16 the discovery deadlines will not be allowed without a showing of good cause for the extension. All
17 motions or stipulations to extend discovery must be received by the court at least 21 days before
18 the expiration of the subject deadline and must fully comply with LR 26-4.

19 9. Alternative Dispute Resolution: The parties certify that they have met and conferred
20 about the possibility of settlement.

21 10. Alternative Forms of Case Disposition: The parties certify that they have conferred
22 regarding consent to trial by a magistrate judge under 28 U.S.C. § 636(c) and FRCP 73 and the use
23 of the Short Trial Program (General Order 2013-01), however, were not agreeable to these options.

24 11. Electronic Evidence: A jury demand has been filed in this matter. The parties certify
25 that they intend to present evidence in electronic format to jurors for the purposes of jury
26 deliberations.

27 12. Preservation of Discoverable Evidence: The parties hereby agree to preserve for
28 purposes of this litigation relevant evidence in accordance with the Federal Rules of Civil

Procedure, including documents and other tangible things, if applicable. Failure to do so may be grounds for a spoliation instruction at trial following motion practice.

13. Email Service: The parties consent to electronic service, to the extent the size of the submission permits it, of all court filings, not served through ECF (e.g., filings under seal), and such service shall constitute proper service under Fed. R. Civ. P. 5(b)(2)(E). The parties further consent to electronic service of correspondence and discovery, in lieu of other service methods, under Fed. R. Civ. P. 5(b)(2)(E) on all counsel who have entered an appearance on behalf of the party to be served.

MCNUTT LAW FIRM, P.C.

NYE LEGAL, PLLC

/s/ Dan McNutt

Daniel R. McNutt, Esq., Bar No. 7815
Matthew C. Wolf, Esq., Bar No. 10801
11441 Allerton Park Drive, Suite 100
Las Vegas, Nevada 89135
Counsel for Defendant Boruchowitz

/s/ Thomas Gibson

Thomas Gibson, Esq., Bar No. 3995
1601 East Basin Avenue, #302
Pahrump, Nevada 89060
Counsel for Plaintiff

ORDER

IT IS SO ORDERED.


UNITED STATES MAGISTRATE JUDGE

DATED: December 19, 2023